

AMENDED IN SENATE MAY 5, 2011

**SENATE BILL**

**No. 674**

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**Introduced by Senator Padilla**

February 18, 2011

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An act to amend Sections ~~739.5 and 8380~~ 739.5, 8380, and 8381 of, and to repeal Section 709.7 of, the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 674, as amended, Padilla. Telecommunications: master-metering: data security.

(1) The California High Speed Internet Access Act of 1999, among other things, requires the Public Utilities Commission to monitor and participate in a specified proceeding of the Federal Communications Commission addressing whether to require incumbent local exchange carriers, as defined, to permit interconnection by competitive data local exchange carriers, as defined, at any technically feasible point, to permit those competitive local exchange carriers to provide high bandwidth data services over telephone lines with voice services provided by incumbent local exchange carriers.

This bill would repeal the California High Speed Internet Access Act of 1999.

(2) Under existing law, the commission has regulatory authority over public utilities, including electrical corporations. An electrical corporation is defined as including every corporation or person owning, controlling, operating, or managing any electric plant for compensation within this state, except where electricity is generated on or distributed by the producer through private property solely for its own use or the use of its tenants and not for sale or transmission to others. Existing

law requires that, when gas or electric service is provided by a master-meter customer to users who are tenants of a mobilehome park, apartment building, or similar residential complex, the master-meter customer charge each user a rate not to exceed the rate that would be applicable if the user were receiving gas or electricity, or both, directly from the gas or electrical corporation. Existing law creates further requirements for master-meter customers and for the corporations that provide service to them, including a requirement that a master-meter customer of a gas or electrical corporation who receives any rebate from the corporation to distribute to, or credit to the account of, each current user served by the master-meter customer a specified portion of the rebate.

This bill would exclude from the definition of “rebate” the award of a monetary incentive under the California Solar Initiative for a solar energy system that provides electrical generation for the common area of a mobilehome park.

(3) Existing law prohibits an electrical corporation or gas corporation from sharing, disclosing, or otherwise making accessible to any 3rd party a customer’s electrical or gas consumption data, as defined, except as specified. Existing law provides that, if the electrical corporation or gas corporation contracts with a 3rd party for a service that allows a customer to monitor his or her electricity or gas usage, and the 3rd party uses the data for a secondary commercial purpose, the contract between the electrical or gas corporation and the 3rd party shall provide that the 3rd party prominently discloses that secondary commercial purpose to the customer. Existing law provides that nothing precludes an electrical corporation or gas corporation from disclosing a customer’s electrical or gas consumption data to a 3rd party for system, grid, or operational needs, or the implementation of demand response, energy management, or energy efficiency programs, if the utility contract with the 3rd party, among other provisions relating to data security, prohibits the use of the data for a secondary commercial purpose not related to the primary purpose of the contract without the customer’s consent. *Existing law imposes a parallel prohibition, and parallel disclosure and consent requirements, on a local publicly owned electric utility.*

This bill would require those contracts to require *prescribed* customer consent prior to the use of the data.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 709.7 of the Public Utilities Code is  
2 repealed.

3 SEC. 2. Section 739.5 of the Public Utilities Code is amended  
4 to read:

5 739.5. (a) The commission shall require that, whenever gas  
6 or electric service, or both, is provided by a master-meter customer  
7 to users who are tenants of a mobilehome park, apartment building,  
8 or similar residential complex, the master-meter customer shall  
9 charge each user of the service at the same rate that would be  
10 applicable if the user were receiving gas or electricity, or both,  
11 directly from the gas or electrical corporation. The commission  
12 shall require the corporation furnishing service to the master-meter  
13 customer to establish uniform rates for master-meter service at a  
14 level that will provide a sufficient differential to cover the  
15 reasonable average costs to master-meter customers of providing  
16 submeter service, except that these costs shall not exceed the  
17 average cost that the corporation would have incurred in providing  
18 comparable services directly to the users of the service.

19 (b) Every master-meter customer of a gas or electrical  
20 corporation subject to subdivision (a) who, on or after January 1,  
21 1978, receives any rebate from the corporation shall distribute to,  
22 or credit to the account of, each current user served by the  
23 master-meter customer that portion of the rebate which the amount  
24 of gas or electricity, or both, consumed by the user during the last  
25 billing period bears to the total amount furnished by the corporation  
26 to the master-meter customer during that period.

27 (c) An electrical or gas corporation furnishing service to a  
28 master-meter customer shall furnish to each user of the service  
29 within a submetered system every public safety customer service  
30 which it provides beyond the meter to its other residential  
31 customers. The corporation shall furnish a list of those services to  
32 the master-meter customer who shall post the list in a conspicuous  
33 place accessible to all users. Every corporation shall provide these  
34 public safety customer services to each user of electrical or gas  
35 service under a submetered system without additional charge unless  
36 the corporation has included the average cost of these services in  
37 the rate differential provided to the master-meter customer on  
38 January 1, 1984, in which case the commission shall deduct the

1 average cost of providing these public safety customer services  
2 when approving rate differentials for master-meter customers.

3 (d) Every master-meter customer is responsible for maintenance  
4 and repair of its submeter facilities beyond the master-meter, and  
5 nothing in this section requires an electrical or gas corporation to  
6 make repairs to or perform maintenance on the submeter system.

7 (e) Every master-meter customer shall provide an itemized  
8 billing of charges for electricity or gas, or both, to each individual  
9 user generally in accordance with the form and content of bills of  
10 the corporation to its residential customers, including, but not  
11 limited to, the opening and closing readings for the meter, and the  
12 identification of all rates and quantities attributable to each block  
13 in the applicable rate structure. The master-meter customer shall  
14 also post, in a conspicuous place, the applicable prevailing  
15 residential gas or electrical rate schedule, as published by the  
16 corporation.

17 (f) The commission shall require that every electrical and gas  
18 corporation shall notify each master-meter customer of its  
19 responsibilities to its users under this section.

20 (g) The commission shall accept and respond to complaints  
21 concerning the requirements of this section through the consumer  
22 affairs branch, in addition to any other staff that the commission  
23 deems necessary to assist the complainant. In responding to the  
24 complaint, the commission shall consider the role that the office  
25 of the county sealer in the complainant's county of residence may  
26 have in helping to resolve the complaint and, where appropriate,  
27 coordinate with that office.

28 (h) Notwithstanding any other provision of law or decision of  
29 the commission, the commission shall not deny eligibility for the  
30 California Alternative Rates for Energy (CARE) program, created  
31 pursuant to Section 739.1, for a residential user of gas or electric  
32 service who is a submetered resident or tenant served by a  
33 master-meter customer on the basis that some residential units in  
34 the master-meter customer's mobilehome park, apartment building,  
35 or similar residential complex do not receive gas or electric service  
36 through a submetered system.

37 (i) For purposes of this section, "rebate" does not include the  
38 award of a monetary incentive under the California Solar Initiative  
39 adopted by the Public Utilities Commission in Decision 05-12-044  
40 and Decision 06-01-024, as modified by Article 1 (commencing

1 with Section 2851) of Chapter 9 of Part 2, for a solar energy system  
2 that provides electrical generation for the common area of a  
3 mobilehome park.

4 SEC. 3. Section 8380 of the Public Utilities Code is amended  
5 to read:

6 8380. (a) For purposes of this section, “electrical or gas  
7 consumption data” means data about a customer’s electrical or  
8 natural gas usage that is made available as part of an advanced  
9 metering infrastructure, and includes the name, account number,  
10 or residence of the customer.

11 (b) (1) An electrical corporation or gas corporation shall not  
12 share, disclose, or otherwise make accessible to any third party a  
13 customer’s electrical or gas consumption data, except as provided  
14 in subdivision (e) or upon the consent of the customer.

15 (2) An electrical corporation or gas corporation shall not sell a  
16 customer’s electrical or gas consumption data or any other  
17 personally identifiable information for any purpose.

18 (3) The electrical corporation or gas corporation or its  
19 contractors shall not provide an incentive or discount to the  
20 customer for accessing the customer’s electrical or gas consumption  
21 data without the prior consent of the customer.

22 (4) An electrical or gas corporation that utilizes an advanced  
23 metering infrastructure that allows a customer to access the  
24 customer’s electrical and gas consumption data shall ensure that  
25 the customer has an option to access that data without being  
26 required to agree to the sharing of his or her personally identifiable  
27 information, including electrical or gas consumption data, with a  
28 third party.

29 (c) If an electrical corporation or gas corporation contracts with  
30 a third party for a service that allows a customer to monitor his or  
31 her electricity or gas usage, and that third party uses the data for  
32 a secondary commercial purpose, the contract between the electrical  
33 corporation or gas corporation and the third party shall provide  
34 that the third party prominently discloses that secondary  
35 commercial purpose to the customer and secures the customer’s  
36 consent *to the use of his or her data for that secondary commercial*  
37 *purpose* prior to the use of the data.

38 (d) An electrical corporation or gas corporation shall use  
39 reasonable security procedures and practices to protect a customer’s

1 unencrypted electrical or gas consumption data from unauthorized  
2 access, destruction, use, modification, or disclosure.

3 (e) (1) This section shall not preclude an electrical corporation  
4 or gas corporation from using customer aggregate electrical or gas  
5 consumption data for analysis, reporting, or program management  
6 if all information has been removed regarding the individual  
7 identity of a customer.

8 (2) ~~this~~ This section shall not preclude an electrical corporation  
9 or gas corporation from disclosing a customer's electrical or gas  
10 consumption data to a third party for system, grid, or operational  
11 needs, or the implementation of demand response, energy  
12 management, or energy efficiency programs, provided that, for  
13 contracts entered into after January 1, 2011, the utility has required  
14 by contract that the third party implement and maintain reasonable  
15 security procedures and practices appropriate to the nature of the  
16 information, to protect the personal information from unauthorized  
17 access, destruction, use, modification, or disclosure, and prohibits  
18 the use of the data for a secondary commercial purpose not related  
19 to the primary purpose of the contract without the customer's prior  
20 consent *to that use*.

21 (3) This section shall not preclude an electrical corporation or  
22 gas corporation from disclosing electrical or gas consumption data  
23 as required or permitted under state or federal law or by an order  
24 of the commission.

25 (f) If a customer chooses to disclose his or her electrical or gas  
26 consumption data to a third party that is unaffiliated with, and has  
27 no other business relationship with, the electrical or gas  
28 corporation, the electrical or gas corporation shall not be  
29 responsible for the security of that data, or its use or misuse.

30 *SEC. 4. Section 8381 of the Public Utilities Code is amended*  
31 *to read:*

32 8381. (a) For purposes of this section, "electrical consumption  
33 data" means data about a customer's electrical usage that is made  
34 available as part of an advanced metering infrastructure, and  
35 includes the name, account number, or residence of the customer.

36 (b) (1) A local publicly owned electric utility shall not share,  
37 disclose, or otherwise make accessible to any third party a  
38 customer's electrical consumption data, except as provided in  
39 subdivision (e) or upon the consent of the customer.

1 (2) A local publicly owned electric utility shall not sell a  
2 customer's electrical consumption data or any other personally  
3 identifiable information for any purpose.

4 (3) The local publicly owned electric utility or its contractors  
5 shall not provide an incentive or discount to the customer for  
6 accessing the customer's electrical consumption data without the  
7 prior consent of the customer.

8 (4) A local publicly owned electric utility that utilizes an  
9 advanced metering infrastructure that allows a customer to access  
10 the customer's electrical consumption data shall ensure that the  
11 customer has an option to access that data without being required  
12 to agree to the sharing of his or her personally identifiable  
13 information, including electrical consumption data, with a third  
14 party.

15 (c) If a local publicly owned electric utility contracts with a  
16 third party for a service that allows a customer to monitor his or  
17 her electricity usage, and that third party uses the data for a  
18 secondary commercial purpose, the contract between the local  
19 publicly owned electric utility and the third party shall provide  
20 that the third party prominently discloses that secondary  
21 commercial purpose to the customer *and secures the customer's*  
22 *consent to the use of his or her data for that secondary commercial*  
23 *purpose prior to the use of the data.*

24 (d) A local publicly owned electric utility shall use reasonable  
25 security procedures and practices to protect a customer's  
26 unencrypted electrical consumption data from unauthorized access,  
27 destruction, use, modification, or disclosure, and ~~prohibits to~~  
28 *prohibit* the use of the data for a secondary commercial purpose  
29 not related to the primary purpose of the contract without the  
30 customer's consent.

31 (e) (1) ~~Nothing in this~~ *This* section shall *not* preclude a local  
32 publicly owned electric utility from using customer aggregate  
33 electrical consumption data for analysis, reporting, or program  
34 management if all information has been removed regarding the  
35 individual identity of a customer.

36 (2) ~~Nothing in this~~ *This* section shall *not* preclude a local  
37 publicly owned electric utility from disclosing a customer's  
38 electrical consumption data to a third party for system, grid, or  
39 operational needs, or the implementation of demand response,  
40 energy management, or energy efficiency programs, provided, for

1 contracts entered into after January 1, 2011, that the utility has  
2 required by contract that the third party implement and maintain  
3 reasonable security procedures and practices appropriate to the  
4 nature of the information, to protect the personal information from  
5 unauthorized access, destruction, use, modification, or disclosure,  
6 *and prohibits the use of the data for a secondary commercial*  
7 *purpose not related to the primary purpose of the contract without*  
8 *the customer's prior consent to that use.*

9 (3) ~~Nothing in this~~ This section shall *not* preclude a local  
10 publicly owned electric utility from disclosing electrical  
11 consumption data as required under state or federal law.

12 (f) If a customer chooses to disclose his or her electrical  
13 consumption data to a third party that is unaffiliated with, and has  
14 no other business relationship with, the local publicly owned  
15 electric utility, the utility shall not be responsible for the security  
16 of that data, or its use or misuse.